IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.788 OF 2006

Balkrishna Ananda Gadale ...Petitioner

Vs.

Anita Dilip Gadale & Anr. ...Respondents

Shri V.Y.Jadhav for the Petitioner.
Shri Rajiv J. Mane for the Respondent No.1.
Ms S.V.Gajare, A.P.P for the State.

CORAM : A. S. OKA, J.
DATE : OCTOBER 11, 2006.

P.C.:

1. Heard the learned Advocate for the Petitioner. He submitted that the order passed by the Trial Court on 31st July, 2004 directing the Petitioner to deposit Rs.30,000/- is totally illegal. He submitted that he is the owner of the motorcycle and as of today, the worth of motorcycle is not even Rs.5,000/-. He submitted that order for delivery of possession of the motorcycle was passed for the first time on 09th July, 2004. He, therefore, submitted that interference by this court is called for.

2. I have considered the submissions. On 20th October, 1993, the learned Judicial Magistrate First Class passed an order directing release of the motorcycle and delivery of the same in favour of the

Petitioner on the Petitioner furnishing a bond in the sum of Rs.30,000/- and on condition that he will be liable to produce the same whenever required and that he shall also take care to maintain the same in proper condition. A revision Application was preferred against the said order by the first Respondent in the Sessions Court. In the meanwhile, the Petitioner executed the bond and obtained custody of the vehicle. The revision Application was allowed by order dated 13th December, 1996. A criminal Writ Petition was filed in this court by the Petitioner in which ad-interim stay was granted. By order dated 08th December, 1997 the said Petition was rejected. There is nothing on record to show that thereafter there was any prohibitory order in favour of the Petitioner.

3. As the Petitioner did not hand over the custody of the vehicle though there was no order operating in his favour atleast from 08th December, 1997, the learned Judicial Magistrate by order dated 09th July, 2004 directed the Inspector of Karad Taluka Police Station to search and attach the motorcycle from the possession of the Petitioner. The said order was implemented. By the impugned order dated 31st July, 2004, the bond of the Petitioner has been ordered to be

forfeited and the Petitioner is directed to deposit the amount of bond.

4. There is nothing on record to show that any attempt was made by the Petitioner from 08th December, 1997 till July 2004 to comply with the order dated 13th December, 1996 and to bring back the motorcycle. The possession of the vehicle was taken over from the Petitioner in July 2004.

5. By the order impugned, the bond amount has been directed to be deposited by the Petitioner. Considering the conduct of the Petitioner, I find that there is no case for interference in this Petition under Article 227 of the Constitution of India. The Petition is rejected. It is made clear that this court has not made adjudication on the issue of ownership of the vehicle.

JUDGE